

EXHIBIT B

to the Declaration of
Lisa J. Cisneros in Support of
Plaintiffs' Opposition Briefs

REDACTED VERSION

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
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6 IN RE: HIGH-TECH EMPLOYEE)
7 ANTITRUST LITIGATION)
8) No. 11-CV-2509-LHK
9 THIS DOCUMENT RELATES TO:)
10 ALL ACTIONS.)
11 _____)
12
13

14 ATTORNEYS' EYES ONLY
15 VIDEO DEPOSITION OF DIGBY HORNER
16 March 1, 2013
17
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19 REPORTED BY: GINA V. CARBONE, CSR NO. 8249, RPR, CCRR
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10:03:59 1 all right, that's the kind of stuff that has to be done
10:04:01 2 for every product, or similar.

10:04:03 3 And so to get back to your specific question on
10:04:05 4 performance, what I'm talking about here is, you know,
10:04:09 5 when somebody interacts with one of our applications,
10:04:12 6 they use a mouse or they use the keypad, they perform
10:04:16 7 certain operations, maybe in PhotoShop it might be that
10:04:18 8 there's a photographic image and they're going to apply
10:04:23 9 a filter to that image, and it's going to take some
10:04:25 10 amount of time for the algorithm that lives behind
10:04:29 11 that -- that request that the user has made to sort of
10:04:32 12 visit every pixel and perform both analysis and
10:04:35 13 manipulation on that pixel. That's super compute
10:04:41 14 intensive type of stuff.

10:04:42 15 And so when I talk about performance, what I'm
10:04:45 16 talking about is needing to get together with Apple's
10:04:48 17 engineers to really understand, you know, what are the
10:04:51 18 best APIs within their operating system that we should
10:04:55 19 be calling to ensure that we can perform those
10:04:59 20 algorithms with the highest performance, because it was
10:05:01 21 very much the desire of both companies to, you know,
10:05:04 22 offer a product that was exceptional on their platform.

10:05:10 23 There were many examples where, you know, the
10:05:12 24 APIs that they provided in the operating system had not
10:05:17 25 really been designed with the kinds of operations in

10:05:19 1 mind that -- that our applications required and --

10:05:24 2 MS. SCHALMAN-BERGEN: Q. I don't mean to
10:05:25 3 interrupt you. Can you just clarify what API's are and
10:05:28 4 then you can go on.

10:05:30 5 A. Application programming interface.

10:05:32 6 Q. Okay.

10:05:32 7 A. Yeah.

10:05:32 8 So that's -- that's what I mean by -- by an
10:05:34 9 example of the kind of collaboration that would be
10:05:37 10 necessary in PhotoShop in the category of performance.

10:05:42 11 Q. Thank you --

10:05:43 12 A. And that's true for Premier. It's true for
10:05:47 13 After Effects and -- and -- and many of the other
10:05:49 14 products. Although the nature of that may be different
10:05:51 15 in each of those applications.

10:05:53 16 Q. Are you finished?

10:05:54 17 A. Yes.

10:05:58 18 Q. Did collaborations relating to the performance
10:06:00 19 of Adobe's products on the Apple platform begin in 2005?

10:06:04 20 A. No.

10:06:06 21 Q. When did they begin?

10:06:08 22 A. Difficult for me to give you an exact answer on
10:06:10 23 that. Almost, you know -- I mean, certainly, I would
10:06:13 24 say, right from when those applications first came to
10:06:16 25 life.

10:06:18 1 Q. So the collaborations that you've been
10:06:20 2 describing, is it fair to describe them as ongoing?

10:06:24 3 A. Yes.

10:06:26 4 Q. In any of the collaborations that you've
10:06:29 5 mentioned so far, were any of them collaborations that
10:06:34 6 began in or around 2005?

10:06:38 7 A. I don't recall. I mean, they were definitely
10:06:42 8 underway in 2005, but I don't -- it's difficult for me
10:06:47 9 to, you know, think -- I mean, short of some of the --
10:06:50 10 the big OS transformations, like the move to OS X or the
10:06:56 11 power PC transformation, those kinds of things, maybe
10:07:01 12 it's best -- certainly the way I think about this is
10:07:04 13 that with every significant release of Mac -- of the
10:07:08 14 Macintosh OS, which, you know, occurred about every 18
10:07:13 15 months to two years, typically, there was, you know,
10:07:16 16 several months of -- of pretty deep collaboration that
10:07:19 17 was necessary to make sure that our products would
10:07:21 18 continue to run, you know, appropriately.

10:07:26 19 Q. When was OS X released?

10:07:28 20 A. I don't remember the exact time frame of that.

10:07:30 21 Q. Was it prior to 2005?

10:07:31 22 A. It was, I believe.

10:07:44 23 Q. In your meeting with Bruce, the eteam meeting
10:07:48 24 we've been talking about, which specific collaborations
10:07:52 25 did Bruce identify as being important to starting this

10:07:57 1 no solicitation agreement?

10:08:00 2 A. He didn't talk about specific collaborations,
10:08:03 3 but I -- I definitely interpreted this to be, you know,
10:08:10 4 largely instigated as a result of our need to have these
10:08:15 5 engineering, development-driven collaborations. So that
10:08:20 6 was my interpretation.

10:08:22 7 Q. Did engineering development-driven
10:08:25 8 collaborations begin with Apple shortly prior to the
10:08:29 9 eteam meeting that you had?

10:08:30 10 A. No.

10:08:40 11 Q. What did he say about why collaborations
10:08:43 12 required Adobe and Apple to enter into the agreement
10:08:46 13 you've discussed?

10:08:49 14 MR. KIERNAN: Assumes facts not in evidence.
10:08:50 15 Objection to the extent it misstates his prior
10:08:53 16 testimony.

10:08:56 17 THE WITNESS: I'm sorry, can you repeat the
10:08:57 18 question for me.

10:08:58 19 MS. SCHALMAN-BERGEN: Can you read it back,
10:08:59 20 please.

10:09:06 21 (Record read as follows: What did he say about
10:09:06 22 why collaborations required Adobe and Apple to
10:09:06 23 enter into the agreement you've discussed?)

10:09:08 24 MR. KIERNAN: Assumes facts not in evidence.

10:09:08 25 And to the extent it misstates his prior testimony about

10:09:11 1 what Bruce Chizen said at the meeting.

10:09:14 2 THE WITNESS: Yeah. I'm sorry, I'm having kind
10:09:17 3 of a hard time parsing the question. Can you repeat it
10:09:20 4 one more time.

10:09:32 5 (Record read as follows: What did he say about
10:09:32 6 why collaborations required Adobe and Apple to
10:09:32 7 enter into the agreement you've discussed?)

10:09:33 8 MR. KIERNAN: Same objections.

10:09:34 9 THE WITNESS: Yeah. I think the -- you know,
10:09:36 10 my recollection was that, you know, Bruce fully
10:09:40 11 understood that we had, you know, that we had this
10:09:44 12 ongoing need to have a low level of collaboration with
10:09:47 13 Apple that had been going on for years, really right
10:09:50 14 almost from the start of the company's inception. So I
10:09:55 15 think Bruce didn't really state anything explicitly
10:09:59 16 about that. It was just an assumption. I mean, that's
10:10:01 17 just the way we'd been working for years. And it was
10:10:04 18 necessary.

10:10:08 19 MS. SCHALMAN-BERGEN: Q. It was your
10:10:09 20 assumption that the ongoing need to have a low level
10:10:12 21 of collaboration with Apple required Bruce to enter
10:10:15 22 into an agreement with Steve not to recruit each
10:10:17 23 other's employees?

10:10:19 24 A. Well, I think, you know, I guess, so my answer
10:10:21 25 is yes.

12:25:29 1 Q. Did we talk about After Effects?

12:25:31 2 MR. KIERNAN: Yes.

12:25:32 3 THE WITNESS: You did mention After Effects.

12:25:34 4 MS. SCHALMAN-BERGEN: Q. What's Flash?

12:25:36 5 A. So Flash is the technology that is designed to
12:25:43 6 support interactivity in the context of Web pages.

12:25:51 7 Q. Have Adobe and Apple collaborated with respect
12:25:53 8 to Flash?

12:25:54 9 A. They have. They have.

12:25:56 10 Q. Can you describe the nature of their
12:25:59 11 collaborations.

12:26:00 12 A. Well, I -- I wasn't involved firsthand, but I
12:26:03 13 know that, again, one of the things that Flash is
12:26:06 14 extremely sensitive to is performance. And so that's
12:26:11 15 certainly an area where I know collaboration occurred
12:26:15 16 between the two companies.

12:26:16 17 The other big area of concern with technologies
12:26:20 18 like Flash is security and making sure that, you know,
12:26:24 19 little programs that are essentially representations of
12:26:32 20 this interactivity, they're -- it's much like that page
12:26:34 21 description language we talked about earlier that
12:26:38 22 outputs a printed page. In this case, it's a little
12:26:40 23 language that outputs a little piece of interactivity
12:26:43 24 within the context of a Web page.

12:26:45 25 So security was a big issue that we worked

12:26:48 1 closely with Apple on to assure that somebody wouldn't
12:26:53 2 introduce, you know, any sort of unexpected side effects
12:26:59 3 as a result of running these little action scripts that
12:27:02 4 are the basis of Flash.

12:27:11 5 Q. Has there been any tension between Adobe and
12:27:13 6 Apple with respect to adoption of Flash?

12:27:16 7 A. Yes, there has.

12:27:18 8 Q. Can you describe that tension for me.

12:27:20 9 A. Yeah. I think it's, you know, it's been pretty
12:27:22 10 much in the news. Everybody knows about it. You know,
12:27:25 11 Apple really felt fairly strongly that the use of Flash,
12:27:30 12 particularly in the context of mobile applications,
12:27:33 13 really did not meet Apple's expectations. They didn't
12:27:39 14 feel it was performing enough. They felt that it's, you
12:27:43 15 know, the sort of requirements that they put on
12:27:46 16 batteries associated with these devices, all these
12:27:48 17 things were, you know, not where Apple expected them to
12:27:54 18 be. And that was the source of the tension.

12:27:59 19 Q. And Apple decided not to use Flash on its
12:28:03 20 mobile applications; is that accurate?

12:28:05 21 A. That's accurate.

12:28:07 22 Q. Was that a source of concern at Adobe?

12:28:11 23 A. Absolutely.

12:28:14 24 Q. How would you describe the nature of the
12:28:16 25 relationship between Adobe and Apple during that time

12:28:21 1 period?

12:28:21 2 A. Well, I think it was at a low point. I mean,
12:28:24 3 the relationship ebbed and flowed and there were, you
12:28:27 4 know, points in time that -- the TrueType Microsoft
12:28:30 5 thing is another example of one of those where we were
12:28:32 6 at a low point in our relationship.

12:28:35 7 But I still feel like, you know, even -- even
12:28:38 8 while that was happening, there were still, you know,
12:28:40 9 many, many examples where the companies needed to
12:28:44 10 collaborate and -- and were dependent upon one another.

12:28:49 11 Q. Okay. Have I missed any major collaborations
12:28:54 12 that Apple and Adobe have had to work on during the
12:29:01 13 course of their histories?

12:29:02 14 A. We've talked primarily about the engineering
12:29:04 15 collaborations, but there were a whole range of kind of
12:29:06 16 go-to-market collaborations that were equally impactful.

12:29:11 17 Q. Tell me what you mean by "go to market."

12:29:15 18 A. What I mean by that is, since we serve largely
12:29:18 19 the exact same customer segment, or we have for many
12:29:21 20 years of our combined history, creative professionals,
12:29:25 21 you know, as we introduced a new important product like
12:29:29 22 InDesign, we would frequently collaborate with Apple to
12:29:31 23 put together a marketing campaign that would make
12:29:35 24 available InDesign plus a new Apple device, for example.
12:29:40 25 So that's what I mean by go to market. And there were

12:29:42 1 many, many examples of that.

12:29:43 2 Q. Can you list a few of those examples.

12:29:45 3 A. Yeah. So there were pro- -- there were
12:29:46 4 campaigns that we would jointly run that targeted the
12:29:52 5 educational vertical, so back-to-school kinds of
12:29:54 6 experiences where we would offer discounted software in
12:29:57 7 conjunction with Apple's hardware. The bundling of our
12:30:01 8 products on Apple software, frequently. So those are
12:30:03 9 examples.

12:30:04 10 Q. Are there any other examples of major
12:30:09 11 collaborations that we now have not discussed that --
12:30:12 12 between Adobe and Apple?

12:30:14 13 A. I don't think so.

12:30:16 14 Q. Okay. If you think of any, will you let me
12:30:18 15 know?

12:30:18 16 A. I will.

12:30:19 17 MS. SCHALMAN-BERGEN: I think now would be a
12:30:20 18 good time to take a lunch break.

12:30:22 19 MR. KIERNAN: Okay.

12:30:23 20 THE VIDEOGRAPHER: This is the end of video
12:30:25 21 No. 3. The time is 12:30 p.m.

12:30:28 22 We're off the record.

12:30:29 23 (Recess taken.)

01:13:04 24 THE VIDEOGRAPHER: This is the beginning of

01:13:06 25 video No. 4 in the deposition of Digby Horner. The time

01:50:37 1 A. Adobe and Microsoft or Adobe and Apple?

01:50:39 2 Q. Microsoft.

01:50:41 3 A. Adobe and Microsoft. I'm sure there are
01:50:46 4 others, but I think we've talked about the ones that I
01:50:48 5 can recall at this point.

01:50:55 6 And I know, by the way, that you asked me, you
01:50:57 7 know, could I think of any others with respect to Adobe
01:50:59 8 and Apple. And I did think of a couple more.

01:51:02 9 Q. Okay. Go ahead.

01:51:04 10 A. We talked a bit about OSF -- OS X and Steve's
01:51:08 11 sort of concern that, you know, we weren't moving fast
01:51:11 12 enough on OS X. Well, one of the collaborations I
01:51:13 13 didn't mention was the Illustrator product. Adobe
01:51:16 14 Illustrator. And we put a huge amount of effort in --
01:51:20 15 in, you know, making Illustrator run well on OS X.

01:51:24 16 And, in fact, it was such a significant
01:51:26 17 investment that it took almost -- not almost, it took
01:51:29 18 the entire team almost two full product cycles, so
01:51:32 19 almost three years, to rewrite major portions of that
01:51:35 20 application to work properly on OS X. And that
01:51:40 21 involved, you know, lots and lots of hours of
01:51:43 22 collaboration with -- with Apple.

01:51:44 23 And another big one I missed was when Apple
01:51:48 24 moved to the power PC architecture. You know, the Intel
01:51:51 25 architecture. That was one that was very interesting

01:51:55 1 because it -- it was really foundational and it had a
01:52:00 2 dramatic impact on performance. So we had to go back
01:52:03 3 and really retune performance in all of our applications
01:52:06 4 as a result of that architectural change.

01:52:09 5 So those were two big ones that I -- I didn't
01:52:11 6 mention. Just -- just to be clear, those are the only
01:52:15 7 ones I remember right now.

01:52:18 8 Q. Thank you.

01:52:19 9 With respect to Illustrator, during what time
01:52:22 10 period were Apple and Adobe collaborating the way that
01:52:25 11 you just discussed?

01:52:27 12 A. Well, this was -- this was right prior to
01:52:28 13 OS X being released, so I think that was 2001-ish or
01:52:32 14 thereabouts. And -- and it went on for -- for a good
01:52:37 15 long while.

01:52:37 16 And remember, like I said earlier, OS X was
01:52:39 17 really a series of releases on -- that -- that took, you
01:52:43 18 know, really a five- or six-year period to realize, and
01:52:46 19 so there were four or five different releases.

01:52:48 20 Q. Would you describe the 2001 time period as a
01:52:51 21 period of intense collaboration between Adobe and Apple
01:52:54 22 with respect to Illustrator?

01:52:56 23 A. I would.

01:53:02 24 MR. KIERNAN: I think -- I should note for the
01:53:03 25 record, Sarah, that the -- I think some -- as I'm

01:53:05 1 listening to this right now, some of the confusion I
01:53:07 2 think was you're asking this morning about only
01:53:11 3 collaborations when he was an individual contributor.

01:53:14 4 And I don't know if for now we're going into
01:53:17 5 the manager side, and if you are going to get into that
01:53:20 6 at all or not, but....

01:53:21 7 MS. SCHALMAN-BERGEN: That's a good
01:53:22 8 clarification.

01:53:23 9 Q. And so when I was asking if you remembered any
01:53:26 10 other collaborations, I would like to know the full list
01:53:29 11 of collaborations, so if there are any from your entire
01:53:32 12 time period working at Adobe, so if there's anything so
01:53:35 13 far that you have not mentioned, now would be a good
01:53:37 14 time to tell me about those collaborations.

01:53:39 15 A. Yeah. So I -- I think we talked about the
01:53:41 16 shift to the Intel architecture. We talked about
01:53:44 17 Illustrator. We've talked about PhotoShop and After
01:53:48 18 Effects and InDesign. So I think that's a pretty good
01:53:52 19 laundry list. And -- and again, I'll reserve the right
01:53:55 20 to say that those are the ones I remember right now.
01:54:00 21 I'm sure on my drive home I'll think of several more.

01:54:04 22 Q. That's fair.

01:54:04 23 With respect to the collaborations involving
01:54:07 24 the Intel architecture, during what time period would
01:54:10 25 you say those collaborations occurred?

03:02:23 1 this guy really a rock star and are we willing to make
03:02:27 2 an exception here because this is an infrequent
03:02:29 3 occurrence.

03:02:30 4 Q. And is some of the information in this chart
03:02:32 5 related to the compensation of his peers?

03:02:38 6 A. Well, I think that in this chart right here, I
03:02:41 7 don't see anything -- well, yeah. They do have the base
03:02:44 8 salaries in here. And so I think that the way you would
03:02:51 9 correlate this is that you would look at the salary
03:02:57 10 range that's characterized on page 1. [REDACTED]

[REDACTED] A rather large range.

03:03:06 12 And what you see on the second page is sort of
03:03:09 13 a subset of 5163s. Probably doesn't include
03:03:13 14 localization, engineers and some other categories that
03:03:16 15 aren't good compares and tries to give you a sense of
03:03:19 16 what the distribution of salaries is across those.

03:03:23 17 Q. What is the -- do you see the first column that
03:03:25 18 says comp ratio, I think?

03:03:27 19 A. Yeah. My understanding of comp ratio is where
03:03:33 20 are those folks in the range. So we -- when we bring
03:03:38 21 somebody in as a new hire, you know, we -- we -- we have
03:03:44 22 a particular target in that range that -- that we hire
03:03:48 23 sort of on average against, and Donna Morris would be
03:03:51 24 able to give you tons more detail than I can here, but
03:03:55 25 I'll try to give you the details as I understand them.

03:03:58 1

[REDACTED]

[REDACTED] 2

[REDACTED]

[REDACTED] 3

[REDACTED]

[REDACTED] 4

[REDACTED]

[REDACTED] 5

[REDACTED]

[REDACTED] 6

[REDACTED]

[REDACTED] 7

[REDACTED]

[REDACTED] 8

[REDACTED]

[REDACTED] 9

[REDACTED]

[REDACTED] 10

[REDACTED]

[REDACTED] 11

[REDACTED]

03:04:37 12

I know that's complicated, but....

03:04:40 13

Q. Is it fair to say that you want to consider how

03:04:44 14

[REDACTED] peers are being compensated to make sure

03:04:48 15

that the compensation he receives is fair in comparison

03:04:52 16

to them?

03:04:54 17

MR. KIERNAN: Argumentative.

03:04:55 18

THE WITNESS: Yeah. What I would -- what I

03:04:57 19

would say here is that, you know, the primary thing I

03:04:59 20

look at is -- so that -- that's a term that we use

03:05:03 21

internally, which is internal equity.

03:05:06 22

Q. Okay.

03:05:06 23

A. And, you know, at the end of the day, I -- we

03:05:08 24

do care about that. I mean, one of the things that I

03:05:11 25

would look at is, you know, is the -- is the proposal

03:05:15 1 that John's making something that's likely to put this
03:05:18 2 employee outside of the range. That would, of course,
03:05:20 3 be a concern for me.

03:05:22 4 But really, for me, it's less about the equity
03:05:27 5 with respect to these folks. You know, I don't want
03:05:31 6 them to be out of the range, but it's more about his
03:05:34 7 performance and being able to say, well, what has he
03:05:37 8 done in comparison to some of these other folks,
03:05:40 9 particularly the one on the list here who is a [REDACTED]

03:05:45 10 You know, explain to me what kinds of
03:05:46 11 contributions -- what I would ask Jocelyn is, is help me
03:05:48 12 understand the kinds of things that [REDACTED] has
03:05:51 13 done over the last couple of years and let me just make
03:05:55 14 sure I can calibrate those against the things John has
03:05:58 15 called out and just be confident from a data perspective
03:06:00 16 that we're making an as -- an appropriate exception
03:06:02 17 here.

03:06:03 18 Q. Thank you.

03:06:04 19 If you look at the email above the one we were
03:06:07 20 just looking at, there's an email from John Farmer to
03:06:10 21 you, and that's dated October 25th, 2010. Do you see
03:06:12 22 that?

03:06:13 23 A. Yes.

03:06:13 24 Q. Okay. And Rick Waters and Jocelyn Vosburgh are
03:06:18 25 copied on that. Do you see that?

04:35:13 1 context, you have the time to do it.

04:35:22 2 THE WITNESS: I mean, first off, I agree with
04:35:24 3 this statement and I think the context that I would
04:35:27 4 share here is that, you know, it's similar to, again, a
04:35:33 5 theme that we've touched on a number of times today. I
04:35:35 6 think that if the trust had eroded, we would not have
04:35:44 7 given up in trying to, you know, continue to offer our
04:35:46 8 applications on that platform.

04:35:48 9 But I just -- I think we would have been far
04:35:51 10 less successful at being able to, you know, between the
04:35:53 11 two companies, deliver really world class products that
04:35:57 12 benefited both companies.

04:35:59 13 MS. SCHALMAN-BERGEN: Q. Are you aware of
04:36:00 14 any instance in which a cold call actually impacted
04:36:06 15 collaborations?

04:36:08 16 MR. KIERNAN: Objection to the extent it calls
04:36:09 17 for speculation.

04:36:10 18 THE WITNESS: Yeah. I -- I am not aware of
04:36:13 19 anything in sort of my immediate sphere.

04:36:34 20 MS. SCHALMAN-BERGEN: You can put that document
04:36:35 21 away.

04:36:53 22 Q. Sir, can you identify any ways consumers of
04:36:57 23 Apple products are being hurt -- or excuse me -- of
04:36:58 24 Adobe's products are being hurt because Adobe is no
04:37:01 25 longer adhering or entering into the kinds of

04:37:04 1 nonsolicitation agreements that the DOJ Final Judgment
04:37:07 2 barred?

04:37:08 3 MR. KIERNAN: Objection to the extent it calls
04:37:09 4 for speculation. Ambiguous and assumes facts not in
04:37:14 5 evidence.

04:37:17 6 THE WITNESS: Yeah. I mean, it's pretty early
04:37:19 7 since the DOJ, you know, change is upon us now. So I
04:37:26 8 guess what I fear, and this is, again, just -- you're
04:37:28 9 asking for my opinion here, so....

04:37:31 10 What I fear is something we've touched on a few
04:37:34 11 times today, which is just that there are going to be,
04:37:37 12 you know, features that we are not able to implement to
04:37:40 13 the same level on the Apple platform versus the
04:37:46 14 Microsoft platform. So that's the sort of thing that I
04:37:49 15 fear.

04:37:52 16 MS. SCHALMAN-BERGEN: Q. Which specific
04:37:52 17 features do you fear you will not be able to
04:37:55 18 implement on the same level of the Apple platform as
04:38:00 19 a result of not being enter -- able to enter into
04:38:06 20 nonsolicitation agreements?

04:38:06 21 A. Well, I'm -- I'm sort of offering up a
04:38:08 22 generalization, but I think the sorts of features that
04:38:13 23 I -- I think would be at risk are features that are, you
04:38:19 24 know, highly performance sensitive. And -- and a lot of
04:38:24 25 PhotoShop and -- and the video product features, you

04:38:29 1 know, one of the trends in those products is the ability
04:38:32 2 to make transformations on images or clips of video and
04:38:36 3 sort of see the effects of those things happening in
04:38:38 4 real time. And that takes a tremendous amount of
04:38:41 5 compute time and -- and a -- and very fine tuning that
04:38:45 6 takes advantage of a lot of graphics code processors and
04:38:51 7 things of that nature.

04:38:52 8 And those are examples of the sorts of things
04:38:57 9 that we really require Apple's collaboration to make
04:38:59 10 sure that we're taking advantage of in the proper way.
04:39:02 11 So that's an example of the sort of thing that I think
04:39:05 12 could degrade.

04:39:07 13 Q. Have you expressed this fear to anyone within
04:39:10 14 Adobe?

04:39:11 15 A. Well, I have a team that works on these, you
04:39:16 16 know, enabling our applications to talk to these graphic
04:39:20 17 processing units so, yeah, it's a fear that we talk
04:39:24 18 about internally. I know Apple knows that we're
04:39:27 19 concerned about that. We haven't seen any signs of
04:39:30 20 noncollaboration with them as a result of the DOJ
04:39:34 21 settlement. So that's good.

04:39:36 22 Q. How do you know that Apple knows you're
04:39:38 23 concerned about it?

04:39:39 24 A. Oh, we talk with them.

04:39:41 25 Q. Who do you talk to?

04:39:42 1 A. Well, it's, again, one of these examples of --
04:39:45 2 of collaboration. I mean, somebody in -- there's a
04:39:47 3 couple of people in my core technology group that are
04:39:51 4 responsible for -- they're responsible for some
04:39:56 5 libraries that we build that are incorporated into all
04:39:59 6 of Adobe's products that sort of provide an interface to
04:40:02 7 these graphic processing units.

04:40:04 8 And they have counterparts at Apple. I don't
04:40:07 9 know their exact names. But folks that they talk to on
04:40:10 10 a regular basis to try to stay abreast of any changes
04:40:14 11 that might be coming as a result of OS improvements or
04:40:19 12 OS releases. And so I'm -- I'm sort of assuming -- I
04:40:22 13 know that those conversations happen on a pretty regular
04:40:24 14 basis.

04:40:25 15 Q. Which employee within Adobe told you that they
04:40:28 16 had a conversation with Apple about a fear that
04:40:35 17 nonsolicitation agreements would prevent future
04:40:37 18 collaborations?

04:40:39 19 A. Which Adobe employee. Well, if I said that, I
04:40:42 20 meant that, you know, again, this is kind of one of
04:40:45 21 those things where in team meetings with some of my
04:40:50 22 subgroups we talk about these kinds of things. So I
04:40:52 23 can't name a specific individual. It's more like the
04:40:56 24 buzz that I hear from my team that's quite intimately
04:40:59 25 involved in this area.

04:41:01 1 Q. Can you identify a single individual who has
04:41:03 2 told you that they have spoken with someone at Apple
04:41:06 3 about a fear that collaborations would be hindered as a
04:41:10 4 result of that --

04:41:11 5 A. Well, I didn't say spoken with Apple. I said
04:41:15 6 spoken with -- you know, you asked me if I had heard --
04:41:17 7 my interpretation was has anybody expressed that concern
04:41:20 8 with me.

04:41:21 9 Q. Who has expressed the concern to you?

04:41:23 10 A. Yeah. I can get you a name if I need to. I'm
04:41:25 11 not prepared to give it to you right now, but I'll have
04:41:28 12 to go back and do some research.

04:41:29 13 Q. What would you do to research to get me a name?

04:41:31 14 A. I'd go talk to my GPU group.

04:41:34 15 Q. Who's in your GPU group?

04:41:37 16 A. Well, it's run by a gal by the name or Dahlia
04:41:39 17 Ackner. So I assume it's either her or somebody on her
04:41:43 18 team. But I would like to get the right contact,
04:41:47 19 somebody that is in regular communication with Apple,
04:41:48 20 and it would be somebody on her team.

04:41:50 21 Q. How do you spell her last name?

04:41:52 22 A. A-C-K-N-E-R.

04:41:57 23 Q. As we sit here today, you can't identify a
04:41:59 24 single individual --

04:42:00 25 A. That's correct.

04:47:29 1 call, solicit or hire?

04:47:30 2 MR. KIERNAN: Objection. Form.

04:47:31 3 THE WITNESS: I can only answer in the context
04:47:33 4 of my job and what I actually know. And that's --
04:47:35 5 that's the context within which I'm answering.

04:47:38 6 MS. SCHALMAN-BERGEN: Q. So is the answer
04:47:39 7 to my question, no, you don't have any basis?

04:47:41 8 A. Well, I think I do have a basis. I mean, I
04:47:43 9 manage roughly a thousand people at the company, so, you
04:47:45 10 know, I -- I think if -- I think it's -- I mean, it's
04:47:49 11 not a guarantee, but I think it's reasonable that if
04:47:52 12 there were other agreements, I might know about them.

04:47:56 13 Q. You think it's reasonable that if there were
04:47:58 14 agreements between other defendants you might know of
04:48:00 15 them?

04:48:01 16 A. Hard to say.

04:48:03 17 MS. SCHALMAN-BERGEN: Thank you.

04:48:06 18 THE VIDEOGRAPHER: This is the end of video
04:48:07 19 No. 6 and the conclusion of today's proceeding. The
04:48:11 20 time is 4:48 p.m.

04:48:12 21 We're off the record.

04:48:14 22 (The deposition concluded at 4:48 PM)

04:48:15 23

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04:48:15 25

1 I, Gina V. Carbone, Certified Shorthand
2 Reporter licensed in the State of California, License
3 No. 8249, hereby certify that the deponent was by me
4 first duly sworn and the foregoing testimony was
5 reported by me and was thereafter transcribed with
6 computer-aided transcription; that the foregoing is a
7 full, complete, and true record of said proceedings.

8 I further certify that I am not of counsel or
9 attorney for either of any of the parties in the
10 foregoing proceeding and caption named or in any way
11 interested in the outcome of the cause in said caption.

12 The dismantling, unsealing, or unbinding of
13 the original transcript will render the reporter's
14 certificates null and void.

15 In witness whereof, I have hereunto set my
16 hand this day: March 13, 2013.

17 ___X___ Reading and Signing was requested.

18 _____ Reading and Signing was waived.

19 _____ Reading and signing was not requested.

20

21

22

23

GINA V. CARBONE

24

CSR 8249, CRR, CCRR

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